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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact: _____, ID No. _____

Telephone Number:

Refer Reply To:
CC:PSI:B02
PLR-154193-09
Date:
December 30, 2009

Legend

$$\underline{X} =$$
Trust 1 =Trust 2 =Trust 3 =

Trust 4 =

Trust 5 =

State =

D1 =

D2 =

Dear :

This responds to a letter dated December 14, 2009, and subsequent correspondence, submitted on behalf of X by X's authorized representative, requesting inadvertent termination relief pursuant to § 1362(f) of the Internal Revenue Code.

The information submitted states that X was incorporated under the laws of State. X represents that it timely filed an S corporation election with an effective date of D1.

On D2, Trust 1, Trust 2, Trust 3, Trust 4, and Trust 5 (collectively, "the Trusts") became shareholders of X. X represents that Trusts were qualified subchapter S trusts (QSSTs) eligible to make elections under § 1361(d)(2) effective D2. However, no such elections were filed on behalf of the Trusts. Therefore, the Trusts were not permissible shareholders, and X's S corporation terminated on D2.

X represents that the termination was not motivated by tax avoidance or retroactive tax planning. X further represents that from D2, X and its shareholders have filed all returns consistent with X's status as an S corporation. X and its shareholders have agreed to make any adjustments that the Commissioner may require, consistent with the treatment of X as an S corporation.

Section 1362(f) provides that if (1) an election under § 1362(a) by any corporation (A) was not effective for the taxable year for which made (determined without regard to § 1362(b)(2)) by reason of a failure to meet the requirements of § 1361(b) or to obtain shareholder consents, or (B) was terminated under paragraph (2) or (3) of § 1362(d); (2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent, (3) no later than a reasonable period of time after discovery of the event resulting in the ineffectiveness, steps were taken (A) so that the corporation is a small business corporation, or (B) to acquire the required shareholder consents, and (4) the corporation, and each person who was a shareholder of the corporation at any time during the period specified pursuant to § 1362(f), agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period, then,

notwithstanding the circumstances resulting in such ineffectiveness, the corporation shall be treated as an S corporation during the period specified by the Secretary.

Based solely on the facts submitted and the representations made, we conclude that the termination of X's S corporation on D2 was inadvertent within the meaning of § 1362(f). We further hold that, pursuant to the provisions of § 1362(f), X will be treated as an S corporation from D2 and thereafter provided that the Trusts file QSST elections effective D2, pursuant to the procedures set forth in § 1.1361-1(j)(6), with the appropriate service center within 60 days of the date of this letter. A copy of this letter should be attached to each QSST election.

Except for the specific ruling above, no opinion is expressed or implied concerning the federal tax consequences of the facts of this case under any other provision of the Code. Specifically, no opinion is expressed or implied regarding X's eligibility to be an S corporation or the Trusts' eligibility to be QSSTs.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter is being forwarded to X's authorized representative.

Sincerely,

Bradford R. Poston
Senior Counsel, Branch 2
(Passthroughs & Special Industries)

Enclosures (2)
Copy of this letter
Copy for section 6110 purposes